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Arthur Quiroga

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Arthur Quiroga,

Plaintiff,

vs.

NCC Business Services, Inc.; and DOES
1-10, inclusive,

Defendants.

Case No.:

COMPLAINT

For this Complaint, the Plaintiff, Arthur Quiroga, by undersigned counsel,
states as follows:

JURISDICTION

1. This action arises out of Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to collect a consumer debt.

2. Original and supplemental jurisdiction exists pursuant to 28 U.S.C. §§ 1331, 1367.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendants transact business here and a substantial portion of the acts giving rise to this action occurred here.

PARTIES

4. The Plaintiff, Arthur Quiroga (hereafter "Plaintiff"), is an adult individual residing in Tucson, Arizona, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).

5. The Defendant, NCC Business Services, Inc. (hereafter "NCC"), is a Florida business entity with an address of 3733 University Boulevard West, Jacksonville, Florida 32217-2103, operating as a collection agency, and is a "debt collector" as the term is defined by 15 U.S.C. § 1692a(6).

1 6. Does 1-10 (the “Collectors”) are individual collectors employed by NCC and
2 whose identities are currently unknown to the Plaintiff. One or more of the Collectors
3 may be joined as parties once their identities are disclosed through discovery.
4

5 7. NCC at all times acted by and through one or more of the Collectors.
6

7 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

8 **A. The Debt**
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10 8. The Plaintiff allegedly incurred a financial obligation (the “Debt”) to an original
11 creditor (the “Creditor”).
12

13 9. The Debt arose from services provided by the Creditor which were primarily
14 for family, personal or household purposes and which meets the definition of a “debt”
15 under 15 U.S.C. § 1692a(5).
16

17 10. The Debt was purchased, assigned or transferred to NCC for collection, or NCC
18 was employed by the Creditor to collect the Debt.

19 11. The Defendants attempted to collect the Debt and, as such, engaged in
20 “communications” as defined in 15 U.S.C. § 1692a(2).
21

22 **B. NCC Engages in Harassment and Abusive Tactics**
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24 12. Within the last year, NCC has placed several calls a week to Plaintiff in an
25 attempt to collect the Debt.
26
27
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1 13. Plaintiff has repeatedly told NCC that the Debt does not belong to him, that
2 they are calling the wrong person, and has requested that NCC cease calling him.
3

4 14. At times, NCC representatives have screamed and yelled at him when Plaintiff
5 has insisted that NCC has the wrong person.

6 15. Despite Plaintiff's request, NCC has continued to place calls to him in an
7 attempt to collect the Debt.
8

9
10 **C. Plaintiff Suffered Actual Damages**

11 16. The Plaintiff has suffered and continues to suffer actual damages as a result of
12 the Defendants' unlawful conduct.
13

14 17. As a direct consequence of the Defendants' acts, practices and conduct, the
15 Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional
16 distress, fear, frustration and embarrassment.
17

18 18. The Defendants' conduct was so outrageous in character, and so extreme in
19 degree, as to go beyond all possible bounds of decency, and to be regarded as
20 atrocious, and utterly intolerable in a civilized community.
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COUNT I
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692, et seq.

19. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

20. The Defendants contacted the Plaintiff at a place and during a time known to be inconvenient for the Plaintiff, in violation of 15 U.S.C. § 1692c(a)(1).

21. The Defendants used profane and abusive language when speaking with the consumer, in violation of 15 U.S.C. § 1692d(2).

22. The Defendants caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass, in violation of 15 U.S.C. § 1692d(5).

23. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

24. The Plaintiff is entitled to damages as a result of the Defendants' violations.

COUNT II
INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

25. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

1 26. The Restatement of Torts, Second, § 652(b) defines intrusion upon seclusion as,
2 “One who intentionally intrudes...upon the solitude or seclusion of another, or his
3 private affairs or concerns, is subject to liability to the other for invasion of privacy, if
4 the intrusion would be highly offensive to a reasonable person.”
5

6 27. Arizona further recognizes the Plaintiff’s right to be free from invasions of
7 privacy, thus Defendants violated Arizona state law.
8

9 28. The Defendants intentionally intruded upon Plaintiff’s right to privacy by
10 continually harassing the Plaintiff with excessive phone calls.
11

12 29. The telephone calls made by Defendants to the Plaintiff were so persistent and
13 repeated with such frequency as to be considered, “hounding the plaintiff,” and, “a
14 substantial burden to her existence,” thus satisfying the Restatement of Torts, Second,
15 § 652(b) requirement for an invasion of privacy.
16

17 30. The conduct of the Defendants in engaging in the illegal collection activities
18 resulted in multiple invasions of privacy in such a way as would be considered highly
19 offensive to a reasonable person.
20

21 31. As a result of the intrusions and invasions, the Plaintiff is entitled to actual
22 damages in an amount to be determined at trial from Defendants.
23

24 32. All acts of Defendants and its agents were committed with malice, intent,
25 wantonness, and recklessness, and as such, Defendants are subject to punitive
26 damages.
27
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COUNT III

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

33. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully set forth herein at length.

34. The acts, practices and conduct engaged in by the Defendants vis-à-vis the Plaintiff was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

35. The foregoing conduct constitutes the tort of intentional infliction of emotional distress under the laws of the State of Arizona.

36. As a result of the Defendants' intentional infliction of emotional distress, the Plaintiff is entitled to actual damages in an amount to be determined at trial from Defendants.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the Defendants;

B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against the Defendants;

1 C. Costs of litigation and reasonable attorney's fees pursuant to
2 15 U.S.C. § 1692k(a)(3) against the Defendants;

3
4 D. Actual damages from the Defendants for the all damages including
5 emotional distress suffered as a result of the intentional, reckless, and/or
6 negligent FDCPA violations and intentional, reckless, and/or negligent
7 invasions of privacy in an amount to be determined at trial for the
8 Plaintiff;

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10 E. Punitive damages;

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12 F. For Plaintiff's statutory costs in relation to Arizona claim(s) pursuant
13 to A.R.S. § 12-341; and

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15 G. Such other and further relief as may be just and proper.

16 **TRIAL BY JURY DEMANDED ON ALL COUNTS**
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20 DATED: September 22, 2011

LEMBERG & ASSOCIATES, LLC

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22
23 By: /s/ Kindra Deneau
24 Kindra Deneau

25 Attorney for Plaintiff
26 Arthur Quiroga
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